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In re Application of
CHORNET, Esteban et al.
Application No.: 09/743,930
PCT No.: PCT/CA99/00651
Int. Filing Date: 16 July 1999
Priority Date: 17 July 1998

Attorney Docket No.: 3203.17330 P

For: XANTHANE AND CHITOSANE BASED
POLYIONIC HYDROGELS FOR
STABILIZATION AND CONTROLLED
RELEASE OF VITAMINS

DECISION ON

PETITION

UNDER 37 CFR 1.181

This is a decision on "Response Re: Notice of Abandonment," filed on 03 January 2002, in effect, asking that the Office vacate the Notification of Abandonment. This filing has been treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 16 July 1999, applicants filed international application PCT/CA99/00651. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 27 January 2000. On 16 February 2000, a demand for international preliminary examination was filed prior to nineteen months from the priority date. As such, the deadline for entry into the national stage in the United States was thirty months from the priority date, or 17 January 2001.

On 17 January 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 26 February 2001, USPTO mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b), an English translation of the international application and the processing fee for furnishing the translation later than thirty months from the priority date were required.

On 26 March 2001, applicants submitted, *inter alia*, a combined declaration and power of attorney and a translation of the international application.

On 09 April 2001, the Office mailed a Notification of a Defective Response (Form PCT/DO/EO/916) and a Notice of Defective Translation (Form PCT/DO/EO/913) indicating,

inter alia, that the text in the drawings had not been translated and setting a one month, non-extendable, time period for reply.

On 11 May 2001, applicants submitted, *inter alia*, seven pages of drawings.

On 19 October 2001, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating that applicants had failed to respond to the Notification of Missing Requirements mailed 26 February 2001.

On 03 January 2002, applicants filed the instant petition accompanied by, *inter alia*, post card receipts dated 26 March 2001 and 11 May 2001 and copies of various documents.

DISCUSSION

The documents submitted on both 26 March 2001 and 11 May 2001 are in the file. The Notification of Abandonment issued in error and is hereby vacated.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is GRANTED.

The NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) mailed 19 October 2001 is VACATED.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification of Acceptance (Form PCT/DO/EO/903) and filing receipt. The 35 U.S.C. §371(c) date is 11 May 2001.



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